

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 EARL H. BOND, JR.,

Case No. 2:20-cv-00780-APG-NJK

4 Plaintiff,

Order

5 v.

6 CLARK COUNTY DETENTION CENTER,
7 *et al.*,

8 Defendants.
9

10 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by
11 Earl Bond, who was incarcerated in the custody of the Nevada Department of Corrections
12 (NDOC). On May 13, I dismiss the complaint with leave to amend and directed Bond to file an
13 amended complaint within 30 days. ECF No. 7. The 30-day period has now expired and Bond
14 has not filed an amended complaint.

15 District courts have the inherent power to control their dockets and, in the exercise of that
16 power, may dismiss a case where appropriate. *Thompson v. Hous. Auth. of City of Los Angeles*,
17 782 F.2d 829, 831 (9th Cir. 1986). A party's failure to prosecute an action, failure to obey a
18 court order, or failure to comply with local rules may warrant dismissal of an action with
19 prejudice. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for
20 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
21 (affirming dismissal for failure to comply with an order requiring amendment of complaint);
22 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply
23 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*
Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with

1 court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for
2 lack of prosecution and failure to comply with local rules).

3 In determining whether to dismiss under these circumstances, the court must consider
4 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's
5 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
6 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.
7 *See Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
8 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the first two factors (the public's interest in expeditiously resolving this litigation
10 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of
11 prejudice to the defendants) also weighs in favor of dismissal, since a presumption of injury
12 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
13 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

14 The fourth factor (public policy favoring disposition of cases on their merits) is greatly
15 outweighed by the factors in favor of dismissal discussed herein. Further, this factor is mitigated
16 in this matter because § 1915 requires that, before docketing a complaint filed *in forma pauperis*,
17 the court must identify and dismiss any claims that are frivolous, malicious, fail to state a claim
18 upon which relief may be granted, or seek monetary relief from a defendant who is immune from
19 such relief. *See* 28 U.S.C. 1915. Similarly, under the Prison Litigation Reform Act (PLRA), a
20 federal court must dismiss, at any time, an incarcerated person's claim if the claim "is frivolous
21 or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief
22 against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2).

1 In my Screening Order, I found that Bond failed to properly plead a cognizable claim
2 upon which relief could be granted in violation of the Federal Rules of Civil Procedure. ECF No.
3 7 at 4-6. I pointed out the law relevant to the claims Bond appeared to be asserting. *Id.* at 6-8.

4 Finally, a court's warning to a party that his failure to file an amended complaint will
5 result in dismissal satisfies the fifth factor that the court consider less drastic alternatives. *Ferdik*,
6 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. My order
7 requiring Bond to file an amended complaint expressly stated: "If Bond chooses to file a First
8 Amended Complaint curing the deficiencies of his complaint as outlined in this order, he shall
9 file the First Amended Complaint by June 18, 2021. If he does not, I will dismiss this action
10 without prejudice." ECF No. 3 at 12. Thus, Bond had adequate warning that dismissal would
11 result from his failure to prosecute this matter by filing an amended complaint within the time
12 provided by.

13 I THEREFORE **ORDER** that this action is dismissed without prejudice but without leave
14 to amend for failure to timely prosecute in compliance with the May 13, 2021, Screening Order.

15 I FURTHER **ORDER** the Clerk of the Court to enter judgment accordingly and close this
16 case.

17 DATED THIS 6th of July 2021.



Andrew P. Gordon
United States District Judge